

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

In re JEFFREY WATSON POTTER,

Debtor,

MARTIN FRIEDLANDER,

Appellant,

vs.

No. CIV 08-0455 JB/ACT

BANK OF AMERICA, N.A., LA VISTA
HOMEOWNER'S ASSOCIATION,
YVETTE J. GONZALES, Chapter 7 Trustee,
JEFFREY WATSON POTTER,
UNITED STATES TRUSTEE, et al.,

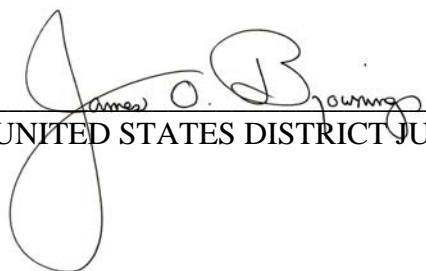
Appellees.

ORDER

THIS MATTER comes before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition, filed July 8, 2008 (Doc. 11). The Magistrate Judge recommended that Appellee La Vista Homeowners' Association's Motion to Dismiss Appeal of Five Orders as Untimely, filed May 22, 2008 (Doc. 5), be granted and that Appellant Martin S. Friedlander's Notice of Appeal as to Docket Numbers 565, 596, 597, 598, and 602 be dismissed for lack of jurisdiction. Friedlander filed his objections on July 18, 2008 (Doc. 13). The Court finds that Friedlander's objections lack a proper factual and legal basis. If the orders are interlocutory, Friedlander has not sought certification from the Bankruptcy Court as rule 8001(b) of the Federal Rules of Bankruptcy Procedure requires. While Friedlander seems to argue that the Bankruptcy Court was biased as a justification for this failure, Friedlander has had at least one motion to recuse the Bankruptcy Court denied, but has not sought to appeal that denial, nor has he explained why the alleged bias would

prevent him from at least attempting to seek certification of an interlocutory appeal. If the orders are final, then the notice of appeal is untimely. Although Friedlander contends that the Bankruptcy Court never had subject-matter jurisdiction, that contention, even if true, would not relieve him of the obligation to timely file a notice of appeal for this Court to be able to review the Bankruptcy Court's decisions. See In re Lang, 414 F.3d 1191, 1196 (10th Cir. 2005)(holding that appellate court cannot review an untimely appeal, even when "the untimely appeal challenged the bankruptcy court's subject matter jurisdiction"). Accordingly, the Court will overrule his objections.

IT IS ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition is adopted by the Court; that Appellee La Vista Homeowners' Association's Motion to Dismiss Appeal of Five Orders as Untimely be granted; and that Appellant Martin S. Friedlander's Notice of Appeal as to Docket Numbers 565, 596, 597, 598, and 602 be dismissed for lack of jurisdiction.



UNITED STATES DISTRICT JUDGE

Parties and Counsel:

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